



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,484	01/30/2006	Masashi Osanai	06062/LH	5151
1933 7590 02/18/2010 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708				
EXAMINER UNDERWOOD, DONALD W				
ART UNIT 3652		PAPER NUMBER		
MAIL DATE 02/18/2010		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/566,484

Applicant(s)

OSANAI ET AL.

Examiner

Donald Underwood

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 21, 25 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 21, 25 and 29-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The drawing is objected to under 37CFR1.83(a) as failing to show and label an arrangement where the attachment angles at a middle portion and a top portion sum to zero (claim 21) and a radially outward pivot axis in the ground, intermediate and top positions (claim 30). It appears figures 3 and 9 satisfy claim 31. Clarification and correction are required in response to this action. The introduction of new matter should be guarded against.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21 and 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

It is unclear what linkage arrangement provides a zero sum of attachment angles at a middle and top position (claim 21) and a radially outward pivot axis of the tilt cylinder on the bell crank in the ground, intermediate and top positions (claim 30). Clarification is required. Note the arrangement in claim 21 was first introduced in an amendment filed 02/06/09 and claim 30 was introduced in the amendment filed 12/08/09.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13, 21, 25 and 29-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 13, it is unclear whether applicants are claiming a plurality of attachments. It appears they are attempting to claim a plurality of attachments. Note "the attachments" in line 27. Thus "the attachment is selected from" in line 23 should be changed to --the attachment is one of-- and "supported" in line 24 should be --supportable--.

Regarding claim 21, it appears some unspecified tilt angle of the bucket is needed and only a displacement amount of the attachment angle to the bucket at the intermediate position is compared to a displacement amount of the attachment angle toward the vehicle at the top position to obtain a sum of zero which renders the claim incomplete and/or indefinite. Note the first 10 lines of paragraph 0036 on page 13 of the specification.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 13, 21, 25, 29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 63-22499 in view of Sutton as applied in the office action mailed 09/08/09.

Regarding the tilted posture added to line 30 in claim 13, the tilt cylinder in the reference can tilt the bucket at the ground position.

Regarding the same posture at a ground, intermediate and top position, this would be obvious in view of the teaching in figure 1 of the Japanese reference and Sutton, column 4, lines 15-20, to keep a tool level during lifting.

Claims 13, 21, 25, 29 and 31 rejected under 35 U.S.C. 103(a) as being unpatentable over either Japanese reference 63-22499 or 06-29398 in view of newly cited Kampert.

Each Japanese reference contains the claimed elements except their bell cranks face rearward instead of forward.

Kampert teaches an arrangement similar to the Japanese references but with a foeward bell crank.

It would have been obvious to substitute a forward facing bell crank for the rearward facing bell crank in either Japanese reference. The exact bend and/or angle

of the bell crank would have been an obvious matter of design and/or choice well within the skill of an artisan dependent upon desired path movement. Sutton, column 4, lines 15-20, provides evidence that an artisan would have this skill in that he sets forth changing the geometry of his links 40 to control the movement of the tool.

Applicants' arguments have been carefully considered but are not deemed persuasive. The examiner is of the opinion that the teaching in Sutton to reshape bell cranks in bucket controls would translate to the structure in Japanese reference 63-22499 since one would be modifying the bell crank in the Japanese reference that controls the bucket. Also paragraph 0036 on page 13 of the specification does not appear to discuss the angles of claim 21 as set forth by applicants. Paragraph 0036 appears to be stating that an absolute value of a displacement of the attachment angle toward the bucket in an intermediate position is compared to a displacement of the attachment toward the vehicle in a top position are equal if the tilting cylinder is tilting the bucket for use at the ground level. This angle of tilt is not disclosed. Moreover, this appears to be an operational step and not a structural limitation and claim 21 appears to misstate paragraph 0036 as set forth in the 112 second paragraph rejection above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald Underwood/
Primary Examiner, Art Unit 3652

021310